

61  
WAK.059

AF/2851  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of

Kazuki Yokota

Serial No.: 09/627,456

Group Art Unit: 2851 ✓

Filed: July 27, 2000

Examiner: Cruz, Magda

For: OVERLAY MARK, METHOD OF MEASURING OVERLAY ACCURACY,  
METHOD OF MAKING ALIGNMENT AND SEMICONDUCTOR DEVICE  
THEREWITH

Honorable Commissioner of Patents  
Alexandria, Virginia 22313-1450

**RE-SUBMISSION OF RESPONSE FILED ON JANUARY 29, 2004 TO FINAL  
OFFICE ACTION**

Sir:

In accordance with the telephone instructions issued on Thursday, April 15, 2004, from Russell Adams, Supervisory Patent Examiner of Technology Center 2800, Applicant re-submits a response ("Response") previously filed on January 29, 2004, by courier, to a Final Office Action dated October 30, 2003.

Briefly, Applicant has contacted Examiner Cruz on numerous occasions regarding the status of the Response, including faxing a copy of the Response to the Examiner on February 23, 2004. In a recent Interview Summary of March 22, 2004, Supervisory Examiner Adams and Examiner Cruz expressly indicate that they are still waiting for the Amendment, i.e., the Response, to be scanned.

Since the sixth month date of April 30, 2004, from the issuance of the Final Office Action is quickly approaching, and the Examiner still has not received the Response due to PTO delays in scanning the Response, Applicant, as indicated above, is re-submitting the

Serial No.09/637,456  
Docket No. NEC00P063-To

2

Response along with the Verified English Translation of the Priority Document and a copy of the Attorney's Post Card Filing Receipt, dated stamped at the PTO on January 29, 2004.

Accordingly, Supervisor Adams expressly indicated that by re-submitting the above information, the Application shall NOT be deemed abandoned should the PTO not respond by April 30, 2004, and thus obviate the Applicant's requirement to file a Notice of Appeal and a Petition For Extension of Time.

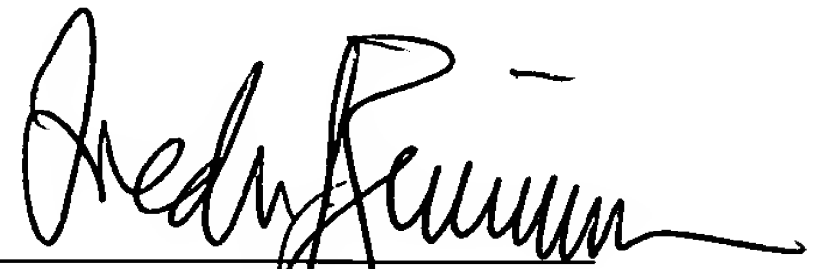
Therefore, the Examiner is respectfully requested to pass the above application to issue at the earliest possible time, i.e., prior to April 30, 2004.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

Date: \_\_\_\_\_

4/15/04

Respectfully Submitted,



Fredric J. Zimmerman, Esq.  
Reg. No. 48,747

**McGinn & Gibb, PLLC**  
8321 Old Courthouse Rd., Suite 200  
Vienna, Virginia 22182  
(703) 761-4100  
**Customer No. 21254**

LAW OFFICES OF  
**McGINN & GIBB, PLLC**  
A PROFESSIONAL LIMITED LIABILITY COMPANY  
PATENTS, TRADEMARKS, COPYRIGHTS, AND INTELLECTUAL PROPERTY LAW  
8321 OLD COURTHOUSE ROAD, SUITE 200  
VIENNA, VIRGINIA 22182-3817  
TELEPHONE: (703) 761-4100  
FACSIMILE/DATA: (703) 761-2375; 761-2376  
E-MAIL: MCGINNGIBB @ AOL.COM

SEAN M. MCGINN  
PHILLIP E. MILLER†  
FREDERICK E. COOPERRIDER†  
PETER A. BALNAVE, Ph.D.  
FREDRIC J. ZIMMERMANT  
JAMES E. HOWARD†  
JAMES N. DRESSER  
JOHN J. DRESCH  
†MEMBER OF BAR OTHER THAN VA

ANNAPOLIS, MD OFFICE  
FREDERICK W. GIBB, III  
MOHAMMAD S. RAHMAN†

February 23, 2004

**VIA FACSIMILE**

To: Examiner Magda Cruz  
Group Art Unit 2851  
U.S.P.T.O.

Facsimile No.: (703) 872-9306

From: Fredric J. Zimmerman

Facsimile No.: (703) 761-2375


Re: Enclosed After-Final Response and Submission of Verified English  
Translation of the Priority Document  
U.S. Patent Application Serial No. 09/627,456  
Docket No. WAK.059

Dear Examiner Cruz:

We herewith enclose a copy of the After-Final Response and Submission of Verified English Translation of the Priority Document filed via courier on January 29, 2004.

Thank you in advance for your consideration on this case.

Very truly yours,

  
Fredric J. Zimmerman

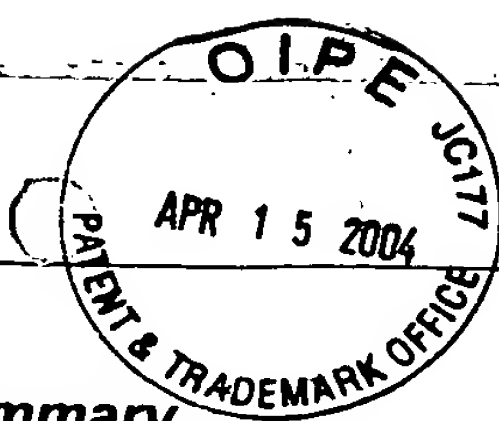
FJZ/geb  
Enclosures

Total No. of Pages Transmitted: 9

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO	2609	
CONNECTION TEL		7038729306
CONNECTION ID		
ST. TIME	02/23 16:46	
USAGE T	02'05	
PGS. SENT	9	
RESULT	OK	



## Interview Summary

Application No.

09/627,456

Applicant(s)

YOKOTA, KAZUKI

Examiner

Magda Cruz

Art Unit

2851

All participants (applicant, applicant's representative, PTO personnel):

(1) Magda Cruz.

(3) \_\_\_\_\_.

(2) Fred Zimmerman.

(4) \_\_\_\_\_.

Date of Interview: 22 March 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: none.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The applicant filed an amendment on 01/29/2004, which has not scanned yet. Therefore, the examiner has to wait until the amendment is on the system to act on the case.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

RUSSELL ADAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Magda Cruz  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



WPK-059 FZ/9eb

Attorney's Post Card Filing Receipt

Serial Number: 09/627,456

Papers Filed On: 1/29/04

Attorney's Docket Number: NEC00P063-70 ☒ Patent

☐ Trademark

Applicant's Name: Kazuki Yokota

Application Filing Date: 7/27/00

Papers Filed Herewith:

☒ Response

☐ Amendment

☐ Request for Extension of Time

☐ CPA Request

☐ Notice of Appeal

☐ Appeal Brief (in triplicate)

☐ Reply Brief

☐ IDS

☐ 1449 Form w/ \_\_\_ Documents

☐ Priority Document(s)

☐ Assignment

☐ Recordation Cover Sheet

☐ Formal Drawings

☐ Drawing Corrections

☐ Issue Fee Transmittal

☐ Missing Parts

☒ Other Sub of Verified English translation of the Priority Document

Fees Filed Herewith: \$ ☐ Check ☐ Charge Deposit Account: \_\_\_\_\_

Hand Delivered

WPK-059 FZ/9eb

Attorney's Post Card Filing Receipt

Serial Number: 09/627,456

Papers Filed On: 1/29/04

Attorney's Docket Number: NEC00P063-70 ☒ Patent

☐ Trademark

Applicant's Name: Kazuki Yokota

Application Filing Date: 7/27/00

Papers Filed Herewith:

☒ Response

☐ Amendment

☐ Request for Extension of Time

☐ CPA Request

☐ Notice of Appeal

☐ Appeal Brief (in triplicate)

☐ Reply Brief

☐ IDS

☐ 1449 Form w/ \_\_\_ Documents

☐ Priority Document(s)

☐ Assignment

☐ Recordation Cover Sheet

☐ Formal Drawings

☐ Drawing Corrections

☐ Issue Fee Transmittal

☐ Missing Parts

☒ Other Sub of Verified English translation of the Priority Document

Fees Filed Herewith: \$ ☐ Check ☐ Charge Deposit Account: \_\_\_\_\_

